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1 KAMALA D. HARRIS Board of Vocational Nursing Attorney General of California and Psychiatric Technicians 2 GLORIA A. BARRIOS Supervising Deputy Attorney General 3 M. TRAVIS PEERY Deputy Attorney General 4 State Bar No. 261887 300 So. Spring Street, Suite 1702 5 Los Angeles, CA 90013 Telephone: (213) 897-0962 6 Facsimile: (213) 897-2804 7 Attorneys for Complainant 8 BEFORE THE BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS 9 DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA 10 11 In the Matter of the Accusation Against: Case No. VN 2010 158 12 **CANDICE ANDREA GIST** 632 Niles Street 13 San Bernardino, CA 92404 ACCUSATION 14 Vocational Nurse License No. VN 227641 15 Respondent. 16 17 Complainant alleges: 18 **PARTIES** 19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in 20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric 21 Technicians, Department of Consumer Affairs (Board). 22 On or about May 22, 2007, the Board issued Vocational Nurse License No. VN 23 227641 to Candice Andrea Gist (Respondent). The Vocational Nurse License expired on 24 September 30, 2010, and has not been renewed. 25 **JURISDICTION** 26 3. This Accusation is brought before the Board under the authority of the following 27 laws. All section references are to the Business and Professions Code unless otherwise indicated. 28 111

STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), states, in pertinent part, that the suspension, expiration, surrender, and cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1, the Board may renew an expired license at any time within four (4) years after the expiration.
 - 5. Section 490 states:
- "(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- "(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.
- "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."
 - 6. Section 2504.1 states:
- (a) A licensee shall respond to any inquiry by the Board or its appointed representatives within 30 calendar days after service of the inquiry."
- 7. Section 2875 states, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

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COST RECOVERY

10. Section 125.3 states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially-Related Crime)

- Respondent is subject to disciplinary action under sections 490, and 2878, subdivision (f), in conjunction with California Code of Regulations, title 16, section 2521, in that Respondent was convicted of a crime which is substantially related to the qualifications, functions, and duties of a vocational nurse as follows:
- On or about September 16, 2010, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 475, subdivision (a) [possession of counterfeit check: forgery], in the criminal proceeding entitled The People of the State of California v. Candice Andrea Gist (Super. Ct. Los Angeles County, 2010, No. 0JB07677). The court placed Respondent on probation for a period of 3 years, and fined her. The circumstances surrounding the conviction are that on or about July 09, 2010, a Glendora Police Officer was dispatched to investigate a fraudulent check at Wal-Mart department store, in the city of Glendora. The Respondent was identified through a surveillance camera as being one of the suspects leaving the store attempting to cash a fraudulent check. Respondent was contacted by the officer outside of Wal-Mart and in her possession they recovered a white envelope containing a Signet Online check, payable to Respondent. Respondent admitted to receiving a check from a friend that worked for Signet and she had agreed to cash the check and split the cash amount with her friend. Respondent admitted to the officer that she did not work for Signet. Respondent was subsequently arrested for possession of a fraudulent check in violation of Penal Code section 475, subdivision (a). 111

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SECOND CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, and Deceit)

13. Respondent is subject to disciplinary action under section 2878, subdivision (j), in that Respondent was convicted of a crime involving fraudulent and deceitful acts on September 16, 2010. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as though set forth fully.

ADDITIONAL DISCIPLINARY CONSIDERATIONS

- 14. To determine the degree of discipline, if any to be imposed on Respondent, Complainant alleges the following:
- a. On or about October 23, 2009, Respondent was served with Citation Order No. 09-0189-L demanding a fine in the amount of \$1,500.00, for violating Business and Professions Code section 2878, subdivisions (a) and (j). A Board investigation substantiated that Respondent forged the signatures of two caregivers of patient T.H. on February 10, February 18, February 24, March 2, March 16, and March 23, 2008. Respondent admitted to committing an act of fraud.
- b. On or about March 23, 2007, Respondent was convicted by a jury of one misdemeanor count of violating Penal Code section 148, subdivision (a)(1), [obstructing a public officer] and one misdemeanor count of violating Penal Code section 243, subdivision (b), [battery on a peace officer] in the criminal proceeding entitled *The People of the State of California v. Candice Andrea Gist* (Super. Ct. Riverside County, 2005, No. RIM473515).
- c. On or about December 15, 2003, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a), [driving while license suspended] and one misdemeanor count of violating Vehicle Code section 40508, subdivision (a), [fail to appear] in the criminal proceeding entitled *The People of the State of California v. Candice Andrea Gist* (Super. Ct. San Bernardino County, 2003, No. 26965RWCG).